

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DAVID WAYNE MCDANIEL,

Petitioner,

vs.

Civ. No. 18-1058 KG/KBM

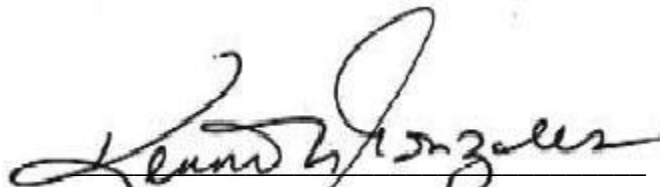
MARK GALLEGOS,

Respondent.

ORDER OF DISMISSAL

This matter is before the Court following the return of the Order to Show Cause entered December 17, 2018. (Doc. 10). That Court mailed the Order to the institution listed on Petitioner's 28 U.S.C. § 2254 petition. (Doc. 1). However, the Order was returned as undeliverable with the notation "Not Deliverable as Addressed." (Doc. 10). Petitioner was directed to notify the Clerk of his new address by January 16, 2019. (Doc. 9) at 1. The Court advised that the failure to comply will result in dismissal of this action. *Id.* The Order was returned as undeliverable, and Petitioner did not update his address as required by D.N.M. LR-Civ. 83.6. (Doc. 10). The Court will therefore dismiss this action under Fed. R. Civ. P. 41(b) for failure to prosecute and comply with local rules and court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003) ("Rule [41] ... permit[s] courts to dismiss actions *sua sponte* for a plaintiff's failure to ... comply with [civil rules and] court orders.").

IT IS ORDERED that Petitioner's 28 U.S.C. § 2254 petition (Doc. 1) is DISMISSED without prejudice.



UNITED STATES DISTRICT JUDGE